

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) LISA FERLAINO and  
(2) JAMES FERLAINO,

Plaintiffs,

v.

(1) CROSSLAND HEAVY  
CONTRACTORS, INC., and  
(2) BRETT HYDE,

Defendants.

(1) COMPSOURCE MUTUAL  
INSURANCE CO.,

Intervenor.

Case No. CIV-20-939-C

**PLAINTIFFS' SECOND AMENDED COMPLAINT**

**COME NOW**, the Plaintiffs, Lisa Ferlaino and James Ferlaino (hereinafter collectively referred to as "Plaintiffs"), and for their cause of action against the Defendants, Crossland Heavy Contractors, Inc. and Brett Hyde (hereinafter collectively referred to as "Defendants"), allege and state as follows:

1. That the Plaintiffs, Lisa Ferlaino and James Ferlaino, reside in Cleveland County, State of Oklahoma.
2. That the Defendant, Brett Hyde, is believed to reside in Oklahoma County, State of Oklahoma.
3. That Defendant, Crossland Heavy Contractors, Inc. is a construction company which is based out of Columbus, Kansas.

4. That on August 20, 2018, Plaintiff, Lisa Ferlaino, was involved in an accident with Defendants, Crossland Heavy Contractors, Inc. and Brett Hyde, at a construction site located in Edmond, Oklahoma.
5. That as a result, jurisdiction and venue are proper herein.
6. That at the time of the accident, Brett Hyde was operating an excavator on behalf of Crossland Heavy Contractors, Inc.
7. That Plaintiff, Lisa Ferlaino, was operating a dump trailer attached to a tractor.
8. That Brett Hyde was attempting to fill the dump trailer with materials when he negligently caused an injury to Plaintiff, Lisa Ferlaino.
9. That the accident referred to herein was the direct and proximate result of the negligence of the Defendants, Crossland Heavy Contractors, Inc. and Brett Hyde, in that Defendants, Crossland Heavy Contractors, Inc. and Brett Hyde:
  - (a) Failed to use reasonable care in the operation of the excavator;
  - (b) Failed to devote full time and attention to the use of the excavator;
  - (c) Failed to keep a proper lookout; and
  - (d) Failed to use the means at hand to avoid causing injury to Plaintiff, Lisa Ferlaino.
10. That as a result of the accident described herein, Plaintiff, Lisa Ferlaino, suffered personal injuries causing Plaintiff, Lisa Ferlaino, to seek medical treatment.

11. Plaintiff, Lisa Ferlaino, has experienced physical pain and mental anguish and will, in all reasonable probability, continue to do so in the future by reason of the nature of her injuries.
12. Plaintiff, Lisa Ferlaino, has been caused to incur medical charges, loss of earnings and expenses in the past and will continue to incur medical expenses and loss of earnings in the future for said injuries.
13. That Defendant, Brett Hyde, was acting in the course and scope of his employment with Defendant, Crossland Heavy Contractors, Inc.
14. That as a result, Defendant, Crossland Heavy Contractors, Inc., are vicariously liable for the negligence of Defendant, Brett Hyde, under the legal theory of *respondeat superior*.
15. Defendant, Crossland Heavy Contractors, Inc., negligently entrusted its equipment to Defendant, Brett Hyde, who was an unfit employee.
16. That the Defendants, Crossland Heavy Contractors, Inc. and Brett Hyde, engaged in conduct which was life-threatening to humans.
17. That Plaintiffs, Lisa Ferlaino and James Ferlaino, are entitled to exemplary or punitive damages for the sake of example and for the purpose of punishing the Defendants, Crossland Heavy Contractors, Inc. and Brett Hyde, for their actions.

**WHEREFORE**, the Plaintiffs, Lisa Ferlaino and James Ferlaino, pray for judgment against the Defendants, Crossland Heavy Contractors, Inc. and Brett Hyde, and for a total sum in excess of Seventy-Five Thousand and No/100 Dollars

(\$75,000.00), costs of this action and for such other and further relief as the Court deems just and proper.

Respectfully Submitted,

/s/Kenyatta R. Bethea

Kenyatta R. Bethea, OBA# 18650

**HOLLOWAY, BETHEA & OTHERS, PLLC**

3035 N.W. 63<sup>rd</sup>, Suite 102N

Oklahoma City, OK 73116

Telephone: (405) 246-0600

Facsimile: (405) 810-4080

[kbethea@hbolaw.com](mailto:kbethea@hbolaw.com)

**ATTORNEYS FOR PLAINTIFFS**

**LISA FERLAINO AND JAMES FERLAINO**

### **CERTIFICATE OF SERVICE**

This is to certify that on the 3<sup>rd</sup> day of May, 2021, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Thomas A. Paruolo, OBA # 18442

Derek Cowan, OBA # 31525

DEWITT, PARUOLO & MEEK

P.O. Box 138800

Oklahoma City, OK 73113

Telephone: 405/705-3600

Facsimile: 405/705-2573

[tom@46legal.com](mailto:tom@46legal.com)

[dcowan@46legal.com](mailto:dcowan@46legal.com)

**ATTORNEYS FOR DEFENDANT**

**CROSSLAND HEAVY CONTRACTORS, INC.**

/s/ Kenyatta R. Bethea

KENYATTA R. BETHEA